

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SACV 08-0622 AG (ANx)	Date	June 11, 2008
Title	ADAM JUNG v. PROVIDENT LIFE AND ACCIDENT INSURANCE CO., ET AL.		

Present: The Honorable	ANDREW J. GUILFORD
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Lori Anderson for Lisa Bredahl

None Present

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: [IN CHAMBERS] ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE REMOVED TO FEDERAL COURT

Defendant Provident Life and Accident Insurance Company (“Defendant Provident”) removed this matter from state court based on diversity under 28 U.S.C. § 1441. Section 1441(b) provides that removal based on diversity jurisdiction is improper where any of the parties joined and served as defendant is a citizen of the state in which the action is brought. Defendant Chisholm & Josselson (“Defendant Chisholm”) is the agency which sold Plaintiff a business overhead expense policy on behalf of Defendant Provident. Defendant Chisholm is a citizen of California. In the Complaint, Plaintiff alleges that Defendant Chisholm negligently misrepresented the nature of the overhead expense policy, leading him to take out the policy based on a false understanding of the protections it offered. (Complaint ¶¶ 14-16.) Defendant Provident contends that these allegations “are insufficient to demonstrate that [Defendant Chisholm] is anything more than a sham defendant.” Defendant Provident claims that an agent acting on behalf of a disclosed principal is immune from liability except in the case of a “special long-term” relationship, and that such a relationship does not exist here. Defendant Provident urges that the Court therefore disregard Defendant Chisholm’s citizenship for purposes of diversity jurisdiction under § 1441(b).

The Court orders Plaintiff to address the propriety of joining Defendant Chisholm to this action. Plaintiff should discuss why, under California law, the allegations in the Complaint are sufficient to state a claim against Defendant Chisholm. Briefing of this issue shall be made in new, separately filed papers of no more than 10 pages each. Plaintiff shall file papers by June 23, 2008. Failure to submit these papers to the Court will be deemed consent to the removal of this action to federal court. Defendant Provident may submit a reply, if any, by June 30, 2008.

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Preparer		lma		